

MAINE RULES FOR GUARDIANS AD LITEM

RULE I. AUTHORITY, SCOPE, GOALS, AND DEFINITIONS

A. Authority and Scope. The following Rules, and the appended Standards, are adopted by the Supreme Judicial Court, pursuant to 19-A MRSA § 1507 and 22 MRSA § 4005. They set the qualifications for Guardians ad litem, standards for practice for Guardians, and govern the appointment of a Guardian and the placement of a Guardian on, and the removal of a Guardian from, the Guardian Roster.

B. Goals. These Rules and the incorporated Standards are designed to improve the services provided by Guardians ad litem to the Court and to ensure that Guardians diligently work to protect and promote the best interests of the children they are appointed to represent. Interpretation of these Rules and the accompanying Standards are to be governed and interpreted by application of the principles that a Guardian is a quasi-judicial officer of the Court, and that a Guardian does not act as a member of the Guardian's underlying profession, but rather as a judicial officer, primarily subject to and governed by the Court. Accordingly, the Guardian is afforded substantial latitude and deference in tailoring her or his role to the particular circumstances of a case and needs of a child, but, in general, a Guardian must:

- represent consistently the best interests of the child and advocate on behalf of the child's best interests;
- understand and uphold the law as it pertains to the Guardian's appointment;
- maintain the highest standards of professionalism, cultural sensitivity, and ethics;
- within the scope of authority defined by statute or court order, plan, carry out, document, and complete thorough, appropriate, and fair investigations in a timely fashion;
- assess any physical, sexual, developmental, and/or emotional risks to or abuse of the child by utilizing: risk assessment tools; evaluations, assessments, and reports; medical records; observation; and interviews with appropriate persons;

ME RULES FOR GUARDIANS AD LITEM R I

- work effectively with other professionals involved in the assessment or treatment of the child and/or parties to a child's case,
- communicate in a developmentally appropriate way with the child; advocate that steps are taken to protect the child from harmful communication;
- make appropriate, well-reasoned, and defensible recommendations regarding the best interests of the child;
- inspire confidence in the Guardian process by including parties in the investigation, by utilizing effective communication techniques, and by being sensitive to the cultural and socioeconomic status of the parties; and
- communicate effectively with the court in motions, reports, recommendations and testimony.

C. Definitions. As used in these Rules and Standards, the following terms have the following definitions:

- i. *Chief Judge*. "Chief Judge" means the Chief Judge of the District Court, or the Chief Judge's designee;
- ii. *Guardian*. "Guardian" means a Guardian ad litem appointed to represent the best interests of one or more children pursuant to 19-A MRSA § 1507 or 22 MRSA § 4005;
- iii. *Judge*. "Judge" means a Justice of the Superior Court, a Judge of the District or Administrative Courts or a Case Management Officer of the District Court, or a Judge of the Probate Court when exercising jurisdiction under Titles 19-A or 22.
- iv. *Roster*. "Roster" means the roster of Guardians maintained by the Chief Judge.

RULE II. GUARDIANS AD LITEM

1. Appointment.

A. Appointment until March 1, 2000.

Until March 1, 2000, a judge may appoint any person who, after consideration of all of the circumstances of the particular case, in the opinion of the appointing judge has the necessary skills and experience to serve as a Guardian and represent the best interests of the child or children in that matter.

B. Appointment on and after March 1, 2000.

On and after March 1, 2000, a judge may appoint, without any findings, any person then listed on the roster. In addition, a judge may, for good cause shown and recited in findings in the order of appointment, appoint any person who, after consideration of all of the circumstances of the particular case, in the opinion of the appointing judge has the necessary skills and experience to serve as a Guardian and represent the best interests of the child or children in that matter.

Appointment in Child Protection Proceedings.

Guardians appointed in child protection proceedings pursuant to 22 M.R.S.A. § 4005 shall be either a court-appointed special advocate or an attorney. If both a court-appointed special advocate and an attorney are not available, the court may appoint another individual rostered in accordance with these rules.

2. Application, Selection, and Placement of Guardians on Roster.

A. Application.

i. Form. Roster applications shall be submitted on the form attached as Appendix C. The Chief Judge may accept an application filed on a substitute form if the Chief Judge determines that substantially all of the information required by Appendix C has been furnished. The Chief Judge may reject an application that is incomplete or does not meet applicable criteria, or the Chief Judge may require an applicant to provide additional information or explanation.

ii. Application Periods.

The Chief Judge shall accept initial applications received by January 15, 2000 and will review all of the initial applications for placement on the roster. The Chief Judge will accept applications received after that date, and will review them periodically, which must occur at least semi-annually.

B. Selection, Qualifications.

The Chief Judge shall screen applications utilizing the criteria set forth in this section. The Chief Judge may waive one or more of the particular criteria for a specific applicant, who is otherwise deemed qualified.

C. Criteria for Initial Listing on the Roster.

i. *Credentials.*

1. A current valid license to practice law in the state of Maine.
2. A current valid license to practice as an LSW, an LCSW, LPC LCPC, LMSW, LMFT, LPC, psychologist or psychiatrist in the state of Maine.
3. A Certification of Qualification by the Director of the CASA program, or
4. Waiver of the licensure or qualification requirement by the Chief Judge pursuant to paragraph II(3).

ii. *Core Training.* Attendance at a Guardian training with a curriculum of at least 16 hours that has been approved by the Chief Judge satisfies this requirement. The curriculum must include specified learning outcomes and activities designed to meet these outcomes, and must cover Titles 19-A and 22, dynamics of domestic abuse and its effect on children, dynamics of divorce and its effect on children, child development, the effects of abuse, neglect and trauma on children, substance abuse, legal issues and processes, the duties and obligations of the Guardian as an agent of the court and interviewing techniques.

For a Guardian acting under the auspices of the CASA program, successful completion of CASA training satisfies this requirement. CASA Guardians who accept appointment in non-CASA cases must complete the core training requirements.

D. Placement on Roster.

The Chief Judge shall notify applicants of the results of the application screening process. Applicants who pass application screening are conditionally accepted, and must complete a release authorizing the Administrative Office of the Courts to conduct a background check,

comprised of a criminal history information check, and screening for child abuse cases in the records of the Department of Human Services.

Those applicants who have not been conditionally accepted may request a review of the Chief Judge's decision under Section 3, Paragraph C. Applicants whose background check results are satisfactory to the Chief Judge will be finally accepted and placed on the roster.

Applicants whose initial checks indicate a material problem may be disqualified or asked for additional information or releases.

E. Continuing Education Requirements.

Unless these requirements are waived by the Chief Judge, a Guardian shall attend and complete any continuing professional education events or seminars designated as mandatory by the Chief Judge. In addition, in each 12 month period beginning July 1, 2001, a Guardian must annually participate in a total of at least 6 hours of continuing professional education programs applicable to one or more of the following:

Titles 19-A and 22, dynamics of domestic abuse and its effect on children, dynamics of divorce and its effect on children, child development, the effects of trauma on children, substance abuse, legal issues and processes, the duties and obligations of the Guardian as an agent of the court and interviewing techniques.

Completion of the specified training hours shall be demonstrated by filing a statement, on a form approved by the Chief Judge, by June 30 of 2002 and each year thereafter.

F. Acceptance of Court Referrals.

A Guardian should anticipate being asked to accept at least one pro bono or reduced fee referral from the judicial system per calendar year, and should do so to the extent consistent with the Guardian's other professional, personal, and other public interest service.

G. Guardian Resignation or Leave of Absence.

A Guardian may resign from the Roster at any time. A Guardian may request a leave of absence from the Roster from the Chief Judge who may accept the request, reject it, or condition acceptance on such terms as the Chief Judge believes are in the best interests of the Judicial Branch.

3. Oversight.

A. Standards of Conduct.

A Guardian shall comply with the requirements of 19-A MRSA § 1507 and 22 MRSA § 4005, as applicable to a particular case, and with the terms of a judge's order appointing the Guardian.

A Guardian must also comply with, to the extent they are not inconsistent with the above governing authorities, the Standards of Practice for Guardians ad Litem in Maine Courts, appended as Exhibit A, and incorporated in these rules by reference. The Guardian must also comply with Paragraphs 1 & 2 of the Preamble, and with the sections entitled Standards of Performance, Abuse of Position, Discrimination, and Conflict of Interest of the Judicial Branch Code of Conduct, appended as Exhibit B,* and incorporated by reference.

A Guardian may not solicit any gift from a party to a case in which the Guardian has been appointed.

A Guardian may accept a gift of both symbolic nature and no or nominal economic value if the Guardian concludes that it is appropriate to do so in the course of establishing or maintaining a relationship with the child or the child's family.

This provision shall be strictly construed. These provisions do not apply to payment of the Guardian's fees and professional expenses. If the Guardian is an attorney, she or he acts in his or her capacity as a Guardian, rather than as an attorney, and information he or she receives is not subject to the attorney-client privilege, but is instead governed by Standard 6.2.

B. Ongoing Evaluations, Reports and Oversight.

A Guardian is subject to ongoing oversight. The Chief Judge may initiate a review of a Guardian based upon his or her own motion, a review of the Guardian's reports, complaints received pursuant to Paragraph 4, Sub-Paragraph A, an observation of performance by a judge, or any combination of these sources.

Nothing in these rules limits a judge's right to regulate a Guardian or remove a Guardian from his or her role in a particular proceeding on motion of a party after notice and hearing, or on the judge's own motion; or the CASA Director's right to regulate or remove a Guardian acting under the auspices of CASA.

4. Complaints, Reviews, and Appeals.

A. Response to Complaints.

The Chief Judge shall maintain a docket of all complaints filed concerning the performance of Guardians. Complaints about the performance of a Guardian in a pending case are to be directed by motion to the judge who appointed the Guardian or to the judge who is conducting hearings in the case.

The Chief Judge will not take any action with respect to, or initiate a review with respect to, a complaint arising from a pending case. When a complaint, other than a complaint in a pending case, is received the Chief Judge shall screen the complaint, and may discuss the complaint with the Guardian or other participants in confidence.

The Chief Judge shall then consider all information available and may dismiss the complaint without further action.

If the Chief Judge decides to review the complaint further, it shall be done under the review procedures set out in Paragraph B.

B. Review Procedures.

The Chief Judge may conduct a review of a Guardian in response to a complaint, or on his or her own motion. If the Chief Judge initiates a review of a Guardian for any reason(s), the Chief Judge shall notify the Guardian of the pending review in writing.

A review panel appointed by the Chief Judge shall review all pertinent information, including interviews with or written statements from the Guardian, the complainant, parties, counsel and court personnel. The panel shall be comprised of one Guardian who is listed on the roster, one attorney and one member of the public.

Upon request, the Guardian may review the complaint and other information developed by the review panel. The Guardian may provide the panel with a written response.

Thereafter, the review panel may terminate the review without action or may notify the Guardian in writing of any proposed action.

If the Guardian requests a hearing before the panel on the proposed action, the Guardian must request one in writing within 14 days of the date of the notice of proposed action.

The review panel shall issue a written decision.

Proceedings of the review panel are normally confidential. Only the Chief Judge, the panel, the complainant, the Guardian, and in the case of an

appeal, the Supreme Judicial Court, shall have access to the proceedings or decision.

The panel may, by majority vote, open the hearing or the decision to the public after considering the complainant's and Guardian's positions, the public interest in access to information, any special need to protect the confidentiality of witnesses or testimony in the particular proceeding, the presence in the proceedings of matters that are otherwise confidential by law, the extent and nature of public awareness of the proceedings or their subject matter, and any special factors that may be relevant in the particular situation.

The Chief Judge, or the Single Justice of the Supreme Judicial Court, upon a finding that the complaint gives rise to a probable fundamental violation of the licensing standards of the Guardian's underlying profession, may make a referral for further action to the appropriate Board or Commission.

5. Temporary or Emergency Removal.

The Chief Judge may remove or suspend a Guardian from the roster prior to initiation or completion of the review procedure set forth in Section 4, paragraph B upon the Chief Judge's determination that it is in the best interests of the Judicial Branch to do so.

RULE III. IMMUNITY

Pursuant to 19-A MRSA § 1507(6), and to these Rules, a Guardian is entitled to quasi-judicial immunity from liability for actions undertaken pursuant to their appointments, these Rules or the Standards of Practice for Guardians ad Litem in Maine Courts.

RULE IV. TRANSITION

Guardians appointed prior to March 1, 2000 shall continue to serve until their appointments are terminated or expire in accordance with the terms of their order of appointment, whether or not listed on the roster. Guardians who do not wish to continue with their appointment must move to withdraw from the case.

RULES FOR GUARDIANS AD LITEM APPENDICES

APPENDIX A. STANDARDS OF PRACTICE FOR GUARDIANS AD LITEM IN MAINE COURTS

1. CORE OBLIGATIONS OF A GUARDIAN AD LITEM

1.1 Exercise of Independent Judgment. A Guardian ad litem acts as a quasi-judicial officer of the Court. Accordingly, a Guardian ad litem shall be guided by the best interests of the child and shall exercise the Guardian's independent judgment on behalf of the child in all relevant matters. These standards represent a compilation of "best practices" for Guardians ad litem. A Guardian is not required to engage in all of the activities listed in every case, but is expected to tailor the Guardian's activities to the individual circumstances of each child and each case, being guided in all instances by the Guardian's evaluation of the best interests of the child.

1.2 Protect Child's Interests. The determination of the child's legal interests must be based on objective criteria as set forth by the provisions of the Maine Revised Statutes Annotated that are related to the purposes of the proceedings.

1.3 Faithfully perform duties. The Guardian ad litem must maintain independent representation of the best interests of the child and perform the Guardian ad litem's duties faithfully. Upon failure of the Guardian to do so, the appointing Court may discharge the Guardian ad litem and appoint a successor.

2. INITIAL CASE DEVELOPMENT

2.1 Develop Understanding of Litigation. Commencing upon appointment the Guardian ad litem should:

- (1) Obtain copies of all relevant pleadings and notices;
- (2) Participate in depositions, negotiations, and discovery that are relevant to the child's best interests, and participate in all case management, pretrial or other conferences, and hearings, unless excused by the court;
- (3) Confirm with the Court Clerk that he or she has been appointed. The Clerk must send copies of all subsequent notices and orders to the Guardian. Parties and their counsel are on notice that the Guardian is entitled to copies

of all pleadings and correspondence with the Court and is entitled to reasonable notification prior to case conferences, changes of placement, and other changes of circumstances affecting the child and the child's family;

(4) Attempt to reduce case delays and if unnecessary delays are encountered, remind the court or its staff of the need to speedily resolve children's issues;

(5) Develop a theory and strategy of the case to implement at hearings, including factual and legal issues;

(6) Identify appropriate family and professional resources for the child.

2.2 Meet and Interview Child. Establishing and maintaining a relationship with a child is a foundation of the Guardian's duties. Therefore, irrespective of the child's age, the Guardian ad litem should visit with the child as soon as possible after appointment, consistent with statutory requirements or the order of appointment, or both. In Title 22 proceedings, unless otherwise specified by the Court, the initial meeting must take place within 7 days. Meetings with the child should include interviews both in the child's home and unless impractical or inappropriate, in a neutral setting. The Guardian should meet with the child prior to court hearings and when apprised of emergencies or significant events impacting on the child. In Title 22 proceedings, unless otherwise specified by the Court, the Guardian must meet with the child at least quarterly.

3. PRE-HEARING ACTIVITIES.

3.1 Access to Child, Parties, Caregivers, Records. The Guardian ad litem shall be provided access to the child by any agency or person. The Guardian ad litem should meet with the child in the child's placement as often as necessary to determine that the child is safe and to ascertain and represent the child's best interests.

Unless otherwise provided by law, the Guardian ad litem shall be provided, upon request, with all reports relevant to the case made to or by any agency or any person and shall have access to all relevant records of such agencies or persons relating to the child or the child's family members or placements of the child.

3.2 Investigation. To support the child's best interests, the Guardian ad litem should conduct prompt thorough, continuing, and independent investigations and discovery which must, unless otherwise directed by the appointing court include,

(1) Reviewing the child's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case, including, when necessary, obtaining court orders to facilitate this review;

(2) Contacting and meeting with the parents, legal guardians, foster parents and caretakers of the child;

(3) Meeting separately with the child and each party, unless inappropriate in a particular case;

(4) Interviewing other individuals involved with the child, including school personnel, child welfare case workers, school personnel, physicians, and mental health professionals who are treating the child.

Pursuant to the statutes, rules, and Standard 1.1, a Guardian has a broad permissible scope of activity and authority. However, in most cases completion of all activities and the exercise of all powers are not necessary. Accordingly, in addition to the above elements, the Guardian's investigation may include, but is not limited to:

(5) Reviewing the court files of siblings and other family members, and other case-related records of involved social service agencies and other service providers;

(6) Contacting lawyers for other parties and Guardians ad litem in the case and in other relevant cases for background information;

(7) Obtaining necessary authorizations for the release of information;

(8) Interviewing individuals involved with the child, including school personnel, child welfare case workers, foster parents and other caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;

(9) Reviewing relevant photographs, video or audio tapes and other evidence; and

(10) Attending and participating in, where appropriate, treatment, placement, administrative hearings, other proceedings involving legal issues, and school case conferences concerning the child as needed;

(11) Assessing any physical, sexual, developmental, and/or emotional risks to or abuse of the child by utilizing: risk assessment tools; evaluations, assessments, and reports; medical records; observation; and interviews with appropriate persons;

(12) Working effectively with other professionals involved in the assessment or treatment of the child and/or parties to a child's case, to include:

(a) identifying the need for assessments related to domestic violence, abuse of a child, chemical dependency, mental health, and/or special developmental, educational, or medical needs of a child and making referrals to appropriate specialists or treatment programs;

(b) requesting educational testing of, or an individualized education plan for a child;

(c) understanding measurement tools, risk assessments, and reports related to domestic violence, abuse of a child, chemical dependence, mental health, and/or the special needs of a child; and

(d) understanding scientific data related to paternity and/or medical needs of a child; disclosing information to other professionals, when it is in the child's best interests to do so, in order that they can adequately perform their functions, and reviewing tentative conclusions or recommendations with them in order to test their validity or appropriateness;

(13) inspiring confidence in the Guardian process by including parties in the investigation, utilizing effective communication techniques, and being sensitive to the culture and socio-economic status of the parties.

3.3 Explanation of Court Process. The Guardian ad litem shall explain, when appropriate, the court process and the role of the Guardian ad litem to the child. The Guardian ad litem will assure, when necessary, that the child is informed of the purpose of court proceeding.

3.4 Ascertain Child's Preferences. The Guardian ad litem should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance. The Guardian ad litem should assure the child that the child's opinions and feelings will be made known to the Court even when not consistent with the recommendations of the Guardian ad litem.

3.5 Appointment of Counsel for Guardian. A Guardian ad litem may petition the Court to appoint a lawyer to represent the Guardian when, in the judgment of the Guardian, such appointment is necessary to protect the legitimacy of the Guardian's role. The Guardian should understand that such an appointment is highly unusual, and that extraordinary cause will be necessary for such an appointment if the Guardian is an attorney.

3.6 Filing of Pleadings. The Guardian ad litem should file such reports, motions, responses or objections as necessary to represent the best interests of the child, and must provide copies to all parties of record. Relief requested may include, but is not limited to:

- (1) A mental or physical examination of a party or the child;
- (2) A parenting, custody or visitation evaluation;
- (3) An increase, decrease, or termination of contact, or the imposition of conditions on contact;
- (4) Restraining or enjoining a change of placement;
- (5) Contempt for noncompliance with a court order;
- (6) Termination of the parent-child relationship;
- (7) Child support;
- (8) A protective order concerning the child's privileged communications or tangible or intangible property;
- (9) Request for services for child or family; and
- (10) Dismissal of petitions or motions.

4. COURT HEARINGS

4.1 Recommendations to the Court. For interim or preliminary protection hearings, the Guardian should, except as otherwise required, appear in court and offer recommendations subject to questions by the Court and parties or counsel. In Title 19-A cases the Guardian ad litem should present written recommendations to the parties and the court at least 14 days prior to final hearing, and in Title 22 cases reasonably in advance of any interim or final hearing. The report shall be based on the Guardian's investigation and evaluation and provide reasons in support of these recommendations. In Title 22 proceedings, unless otherwise specified by the Court, the Guardian must make a subsequent report at least semi-annually.

Whether or not the Guardian's report is objected to, the report may be reviewed by the Court. In Title 22 cases it is fully admissible. In Title 19-A cases, it is fully admissible unless objected to at least 7 days prior to the hearing. Whether or not the Guardian's report is objected to, the Guardian ad litem may offer evidence to the court as set forth in Standard 4.2.

4.2 Participation in Hearing. The Guardian ad litem shall appear at all proceedings to represent the child's best interests, unless previously excused by order of the Court. The Guardian ad litem may present evidence and

ensure that, where appropriate, witnesses are called and examined, including, but not limited to, foster parents and psychiatric, psychological, medical, or other expert witnesses. If the Guardian ad litem testifies, the Guardian ad litem shall be duly sworn as a witness and be subject to cross-examination.

In the event any new developments or significant changes in the child's circumstances occur during the pendency of the court process, the Guardian ad litem may file appropriate pleadings.

4.3 Protection of Child as Witness. The Guardian ad litem should protect the interests of the child who is a witness in any judicial proceeding relating to the case in which the Guardian ad litem has been appointed. The Guardian ad litem may advocate for special procedures, including, but not limited to, special procedures to protect the child witness from unnecessary psychological harm resulting from the child's testimony, with or without the consent of other parties.

4.4 Court Orders. The Guardian ad litem should request orders that are clear, specific, and, where appropriate, include a time line for the assessment, services, placement, treatment and evaluation of the child and the child's family.

5. OTHER ACTIVITIES.

5.1 Participation. The Guardian ad litem should participate in the development and negotiation, including mediation, of any plans or orders that affect the best interests of the child. The Guardian ad litem should monitor implementation of service plans and court orders, through the termination or expiration of the Guardian's appointment, to determine whether services ordered by the court are being provided in a timely manner.

5.2 Development of Services. The Guardian ad litem should advocate for appropriate services (by motion for court order if necessary) to access entitlements, to protect the child's interests and to implement a service plan. These services may include, but not be limited to:

- (1) Family preservation prevention or reunification services;
- (2) Sibling and family visitation;
- (3) Child support;
- (4) Domestic violence prevention, intervention, and treatment;
- (5) Medical and mental health care;

- (6) Drug and alcohol treatment;
- (7) Parenting education;
- (8) Semi-independent and independent living services;
- (9) Foster care;
- (10) Termination of parental rights action;
- (11) Adoption services;
- (12) Education;
- (13) Recreational or social services; and
- (14) Housing.

5.3 Supplementary Family Services. When needs created by a disability are not otherwise being addressed the Guardian ad litem should advocate that a child or a child's family is referred to appropriate supplemental services to address the child's physical, mental, or developmental disabilities. These services may include, but are not limited to:

- (1) Special education and related services;
- (2) Supplemental security income (SSI) to help support needed services;
- (3) Therapeutic foster or group home care; and
- (4) Residential/inpatient and outpatient psychiatric treatment.

6. OTHER

6.1 Mandated Reporting. Pursuant to 22 MRSA § 4011, while acting in their professional capacity as Guardian, Guardians are mandated reporters, and if a Guardian knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected, must make an immediate report to the Department of Human Services.

6.2 Confidentiality. A Guardian ad litem shall observe all statutes, rules and regulations concerning confidentiality. A Guardian ad litem shall not disclose information or participate in the disclosure of information relating to an appointed case to any person who is not a party to the case, except as necessary to perform the Guardian ad litem's duties, including those referenced in Standards 3.2, 5.2 and 5.3, or as may be specifically provided by law. Communications made to a Guardian, including those made to a Guardian by a child, are not privileged and may or may not be disclosed to the parties, the Court or to professionals providing services to the child or the family based on the Guardian's evaluation of the best interests of the

child. A Guardian's notes and work papers are privileged and shall not be disclosed to any person. A court may review a Guardian's decision not to disclose information after an in-camera examination of the information in question. If the Guardian is an attorney, she or he acts in his capacity as a Guardian, rather than as an attorney, and information he or she receives is not subject to the attorney-client privilege.

A Guardian or a judge may, when it is in the best interests of a child, initiate or participate in ex parte communications about a particular case pursuant to the Maine Code of Judicial Conduct, Canon 3(B)(7)(c). However, as a matter of due process and fundamental fairness, the Guardian or the court must promptly disclose the nature of the communication to the parties or their counsel, unless such disclosure is likely to present a risk of harm to the child or a party, in which case the court will take such steps as are necessary to alleviate the potential for harm, and when the danger of harm has passed, disclose the nature of the communication to the parties or their counsel.

6.2 Conflicts. If a Guardian ad litem determines that there is a conflict of interest requiring withdrawal, the Guardian should continue to perform as the Guardian ad litem and seek permission from the court to withdraw. The Guardian should request appointment of a successor Guardian ad litem without revealing the details of the conflict, unless the Guardian determines that it is in the child's best interests to do so.

If a Guardian ad litem is also appointed for siblings, there may also be a conflict which could require that the Guardian seek to withdraw from representing all of the children.

6.3 Withdrawal. A Guardian ad litem may seek to withdraw by filing a motion with the court that appointed the Guardian. The Guardian must continue representation until the motion is granted, and if the Court's order so provides, until a successor Guardian is appointed. In Title 19-A cases, an order that appoints a Guardian "for the duration of the case" does not obligate the Guardian to serve once a final judgment has been rendered. In Title 22 cases, an order that appoints a Guardian "for the duration of the case" obligates the Guardian to serve until final action, including adoption of the child.

*****end of document*****